



16367 U.S. PTO

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U.S. PTO
10/775291



02102004

February 10, 2004

Mail Stop Patent Application
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Transmitted herewith for filing are papers related to the patent application of:

Inventor(s): Tim T. Clark and Harry L. Schoell
For: Integrated Transmission Bell Housing
Our Ref: 6935-001

The filing fee for the enclosed patent application has been calculated as shown below:


	No. Filed	No. Extra	Small Entity		Other than Small Entity	
			Rate	Fee	Rate	Fee
Basic Fee				\$385		\$770
Total Claims	32 - 20 =	12	x 9	= \$108	x 18	= \$
Ind. Claims	5 - 3 =	2	x 43	= \$ 86	x 86	= \$
____ Multiple claims presented			x 145	= \$	x 290	= \$
			Total	\$579	Total	\$

Please charge Deposit Account No. 03-1231 in the amount of \$579.00 to cover the filing fee. Please charge any additional filing fees required under 37 CFR 1.16 to Deposit Account No. 03-1231. A duplicate copy of this letter is enclosed.

Small Entity under 37 C.F.R. §1.27. YES X NO

Respectfully submitted,

Fleit, Kain, Gibbons, Gutman, Bongini & Bianco, P.L.

By 
Robert C. Kain, Jr.
Reg. No. 30,648

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Tim T. Clark

Serial No.:

Filed: Herewith

For: INTEGRATED TRANSMISSION BELL HOUSING

TRANSMITTAL AND CERTIFICATE OF EXPRESS MAILING

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I HEREBY CERTIFY that the below listed documents are being deposited with the United States Postal Service "Express Mail Post Office to Address," Mailing Label No. EV092422387US under 37 C.F.R. 1.10 on February 10, 2004 and are addressed to Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

- ☒ Patent application (22 pgs.; 32 clms.)
- ☒ Ten (10) sheets drawings - informal
- ☒ Declaration and Power of Attorney for Patent Application (2 pgs.)
- ☒ Declaration of Robert C. Kain, Jr., Esq. (5 pages)
- ☒ Petition When Inventor Refuses to Sign (43 pages)(\$260.00 fee charge Deposit Account)
- ☒ Information Disclosure Statement with Form PTO 1449 (3 pgs.)
- ☒ Please charge Deposit Account No. 03-1231 in the amount of \$579.00
- ☒ Fee calculation letter (1 pg) (duplicate)
- ☒ Return receipt postcard.
- ☒ Please charge any underpayments or credit any overpayments to Deposit Account No. 03-1231. A duplicate copy of this transmittal is enclosed.

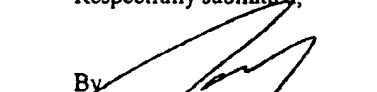
Respectfully submitted,

By



Ellen Kotler

By



Robert C. Kain, Jr.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Tim T. Clark

Serial No.

Filed: Herewith

For: Integrated Transmission Bell Housing

PETITION WHEN INVENTOR REFUSES TO SIGN

Petitioners, Tim T. Clark and Rocketek, LLC, hereby request and file this petition pursuant to 37 C.F. R. § 1.47 requesting that the Commissioner accept the enclosed patent application even though joint inventor Harry L. Schoell refuses to join in the enclosed application. Please debit the \$130.00 fee in accordance with 37 C.F. R. § 1.17(h) to Deposit Account No. 03-1231 for this Petition. If the fee is inadequate, please debit or credit Deposit No. 03-1231. As grounds for this petition, petitioners state:

1. Tim T. Clark and Rocketek LLC retained the services of patent attorney Robert C. Kain, Jr., Registration No. 30,648. Robert Kain interviewed Tim T. Clark and, based upon Mr. Clark's statements and Kain's subsequent conversation with Harry L. Schoell, believes and is of the opinion that Tim T. Clark and Harry L. Schoell are joint inventors of the captioned application. Kain's Declaration is enclosed.
2. After consultation with Tim T. Clark, Robert Kain prepared the patent application filed with this petition. Mr. Clark had indicated that both he and Mr. Schoell are joint inventors.

3. Mr. Kain sent a proposed patent application to Mr. Schoell via Federal Express on February 5, 2004. A copy of the letter to Mr. Schoell is attached as Exhibit A. In this letter, Mr. Kain requests that Mr. Schoell review the application and sign the patent declaration accompanying the application or forward his comments to Mr. Kain for review and inclusion in the patent application.
4. Exhibit B is a copy of the Federal Express shipping label which accompanied the letter dated February 5, 2004 to Mr. Schoell. Exhibit C is a copy of the patent declaration sent to Mr. Schoell with the letter dated February 5, 2004, indicating that both Mr. Clark and Mr. Schoell are joint inventors.
5. Exhibit D is a copy of the proposed patent application which accompanied the letter dated February 5, 2004 sent to Mr. Schoell.
6. Exhibit E is a copy of the Federal Express proof of delivery showing that the letter dated February 5, 2004 was delivered to Mr. Schoell on February 7, 2004. Exhibit page E-2 shows that Mr. Schoell signed for the Federal Express package.
7. On February 9, 2004, Mr. Schoell called Robert Kain, patent attorney for co-inventor and Rocketek, and discussed the invention.
8. Immediately thereafter, Robert Kain prepared the letter dated February 9 and sent this letter to Mr. Schoell. Kain's February 9th letter is attached hereto as Exhibit F. In that letter, Robert Kain discusses the conversation with Mr. Schoell regarding the dispute over inventorship. As explained in this letter and in Kain's enclosed Declaration, it appears that there are serious business disputes between co-inventor Harry L. Schoell and co-inventor Tim T. Clark and those business issues are

"dominating all reasonable discussions as to whether Mr. Clark and you [Harry Schoell] are joint inventors of the bell transmission housing disclosed and claimed in the patent application." p. F-1.

9. Further, Mr. Schoell told Robert Kain, that **he refuses to sign the patent declaration**. The letter dated February 9 (Exhibit F) confirms this statement by Harry Schoell wherein Harry Schoell specifically told Mr. Kain that he would not sign the patent declaration. p. F-2.
10. The Rules of the Patent and Trademark Office state that "If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the non-signing inventor." 37 C.F.R. § 1.47(a). As set forth in the attached exhibits and explained above, Harry Schoell, the co-inventor with Tim Clark, was presented with a patent application and **specifically refused to sign the patent declaration**.
11. The Rules of the Patent and Trademark Office also state "Whenever all of the inventors refuse to execute an application for patent ... a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors." 37 C.F.R. § 1.47(b).
12. In the present case, the present application must be filed no later than February 11, 2004. The invention was publicly disclosed on February 11, 2003. In order to preserve the right to obtain a patent, Tim T. Clark, co-inventor, and Rocketek LLC,

assignee of co-inventor Tim T. Clark, has sufficient proprietary interest justifying this action that the Patent and Trademark Office accept the current application without the signature of co-inventor Harry Schoell.

13. The Rules require that the petitioner show that "... such action is necessary to preserve the rights of the parties or to prevent irreparable damage." 37 C.F.R. § 1.47(b).
14. If a patent application is not filed on or before February 11, 2004, Tim T. Clark, co-inventor, and Rocketek LLC, assignee of Tim T. Clark, cannot obtain patent rights on the captioned invention. Hence, there is a showing of necessary action to preserve the rights of co-inventor Tim T. Clark and his assignee Rocketek LLC.
15. The last known address of co-inventor Harry L. Schoell is 281 S.E. 3rd Court, Pompano Beach, FL 33060. This address is established by Exhibits A, B, C, E and F.
16. The address of co-inventor Tim T. Clark is 4181 NW 6th Street, Deerfield Beach, FL 33442.

WHEREFORE, petitioners Tim T. Clark and Rocketek LLC request that the Patent and Trademark Office accept the patent application notwithstanding the fact that co-inventor Harry L. Schoell refuses to sign the patent declaration.

Respectfully submitted,

Fleit, Kain, Gibbons, Gutman, Bongini & Bianco, P.L.

By  _____

2-10-2004

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